

CHAPTER 2

ENVIRONMENTAL REQUIREMENTS

OVERVIEW

The Montana Environmental Policy Act (MEPA) seeks to avoid or mitigate adverse impacts on the environment by mandating careful consideration of the potential impacts of any development assisted with state funds or approved by a state agency. In addition, TSEP projects are subject to numerous other state environmental laws. In order to avoid problems which could cause delays, add significantly to project costs, or even prevent a project from being carried out, TSEP applicants were encouraged to be sensitive to potential environmental impacts when initially planning their projects.

Communities that have had experience with federally-funded infrastructure programs are aware that the detailed evaluation of potential environmental impacts required by the National Environmental Policy Act, normally takes place after the initial funding award has occurred. MEPA, likewise, requires that all "agencies" of the state consider the environmental impacts of proposed projects. However, TSEP projects are exempt from standard MEPA environmental assessment procedures because the Legislature, rather than a state agency, approves all TSEP projects. For this reason, all TSEP applicants were required to complete an environmental checklist as part of their application, which was intended to alert them to considerations that may have to be addressed in the location, design, or construction of a public facilities project to avoid potential adverse environmental effects or expensive mitigation or construction costs. TSEP applicants were also required to take into account any environmental impacts in the alternative analysis and the selection of the preferred design alternative. That information was used to advise legislators regarding potential environmental impacts before projects were approved by the Legislature.

Although TSEP projects are exempt from the standard environmental assessment procedures of MEPA, the projects are subject to a variety of state environmental laws and related regulations. As TSEP projects get underway, TSEP grant recipients should continue to give strong consideration to any possible effects the proposed project could have on the environment and the need to comply with all applicable state environmental requirements.

For more information on MEPA, see *A Guide to the Montana Environmental Policy Act*, or *A Citizen's Guide to Public Participation in Environmental Decisionmaking*. These documents can be found at <http://www.leg.state.mt.us/css/lepo/mepa/default.asp>.

APPLICABLE STATE REQUIREMENTS

Some of the key state environmental requirements that may affect local TSEP projects include the following:

- ☐ Montana Environmental Policy Act (MEPA), Title 75, Chapter 1, MCA
- ☐ Stream Protection Act, Title 87, Chapter 5, Part 5, MCA
- ☐ Montana Solid Waste Management Act, Title 75, Chapter 10, Part 2, MCA
- ☐ Clean Air Act of Montana, Title 75, Chapter 2, MCA
- ☐ Water Quality Act, Title 75, Chapter 5, MCA
- ☐ Public Water Supplies, Distribution and Treatment, Title 75, Chapter 6, MCA
- ☐ Floodplain and Floodway Management, Title 76, Chapter 5, MCA
- ☐ The Montana State Antiquities Act, Title 22, Chapter 3, MCA

If questions arise regarding compliance with a state environmental requirement, grant recipients should contact their TSEP liaison for assistance.

PERMITS

A sampling of some of the permits that may be required on your project include the following:

- ☐ Montana Stream Protection Act (SPA 124 Permit) – contact the Montana Department of Fish, Wildlife and Parks at 444-2449.
- ☐ Montana Floodplain and Floodway Management Act (Floodplain Development Permit) – contact the Montana Department of Natural Resources and Conservation at 444-0860 or the local floodplain administrator.
- ☐ Federal Clean Water Act (404 Permit) – contact the U.S. Army Corps of Engineers in Helena at 441-1375.
- ☐ Short-Term Water Quality Standard for Turbidity (318 Authorization) – contact the Montana Department of Environmental Quality at 444-3080.
- ☐ Montana Water Use Act (Water Right Permit and Change Authorization) – contact the

Montana Department of Natural Resources and Conservation at 444-6610 or the local DNRC Water Resources Regional Office.

- ☐ Stormwater Discharge General Permits and/or Montana Pollutant Discharge Elimination System (MPDES Permit) – contact the Montana Department of Environmental Quality at 444-3080.

Please check the DNRC website for a copy of “A Guide to Stream Permitting in Montana”. Their web address is <http://www.dnrc.state.mt.us/cardd/strmpmt/stream.htm#sect1>.

PERMITTING TIPS

Wading through the permitting system can be difficult and confusing due to the number of agencies that have permitting authority. To make applying for a permit easier, agencies responsible for some of the permits listed in this brochure cooperatively developed a single application form that can be used when applying for some of the required permits. The form can be obtained by contacting any of the agencies indicated as a participant or by downloading the form at <http://www.dnrc.mt.gov/permit.html>. When designing your project, keep in mind the following tips:

- ☐ Plan ahead. Permit review can take from 30-120 days or more if an application is not complete. Contact all potential permitting agencies early in your planning process. All necessary permits must be obtained prior to beginning work.
- ☐ Secure landowner permission. The receipt of a permit does not mean you have landowner permission. The applicant is responsible for obtaining landowner permission before entering land not owned by the applicant.
- ☐ Submit a complete application. Consider potential impacts of your project such as temporary increases in turbidity, erosion, fisheries and aquatic life impacts due to timing of projects, etc., and include in your application how impacts will be minimized.
- ☐ Leave as much streamside vegetation as possible. Streamside vegetation is important to the health and stability of a stream. Vegetation should be removed only to the extent necessary to construct the project. Plan to re-vegetate the area as soon as possible to avoid erosion and prevent weed infestations.
- ☐ Get professional assistance, if necessary, for designing and constructing your project in conformity with the natural function of the stream or river. Engineering designs may be required, especially for large projects or projects that have the potential for impacts.

- ☐ Consider bioengineering methods, where appropriate, to minimize project impacts. Avoid projects that permanently prevent fish passage.
- ☐ Agencies may approve permit applications contingent upon modifications and may change the timing of the project to minimize impacts.

OTHER ISSUES

Cultural Resource Survey – You may need to perform a cultural resource survey for your project. The State Historic Preservation Office (SHPO) can be reached at 444-7715 for more information. There is guidance for consulting with SHPO at <http://www.his.state.mt.us/shpo/archaeology/consultingwith.asp>.